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November 15, 2016

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Re: Summary of the Ex Parte Meeting
MB Docket Nos. 09-182 and 14-50

Dear Ms. Dortch:

This letter is submitted pursuant to Section 1.1206 of the Commission's Rules to disclose the communications made in the above-referenced proceedings.

On Monday, November 14, 2016, the undersigned and Kelly Donohue of Wilkinson Barker Knauer, both counsel to Connoisseur Media LLC ("Connoisseur") (collectively, "Counsel"), met telephonically with the following FCC employees to discuss the above-referenced proceedings:

- Brendan Holland, Industry Analysis Division, Media Bureau
- Benjamin Arden, Industry Analysis Division, Media Bureau
- Chad Guo, Industry Analysis Division, Media Bureau
- Peter Doyle, Audio Division, Media Bureau
- Lisa Scanlan, Audio Division, Media Bureau
- Christine Goepp, Audio Division, Media Bureau

Connoisseur filed comments in the above-referenced proceedings to address the issue of the methodology used by the Commission in conducting a multiple ownership analysis of stations that are located in an "embedded market." Under the current policies, recently affirmed by the Commission's decision in the Quadrennial Review of its broadcast ownership rules ("Ownership

Order”),¹ the Commission will analyze the multiple ownership compliance of the proposed buyer of a radio station that is home to an embedded market by analyzing both the number of stations that the buyer owns in the embedded market as well as the number of stations that it owns in the larger market in which that market is embedded. In the two markets in which there are now multiple embedded markets (New York and Washington), that means that a broadcaster who owns stations in one embedded market may well be precluded from owning a station in another embedded market not because any of its existing stations compete in that second embedded market, but instead because stations from both markets will be listed as being “home” to the larger market – putting the potential buyer over the ownership limits in that central market.

Counsel noted during the call that they were considering filing a petition for reconsideration of the Ownership Order on this issue. They noted that the decision appeared to treat two similarly situated markets differently – in one case deciding that a market was not a market even though Nielsen said it was, and in another reaching the exact opposite conclusion. In Puerto Rico, noted Counsel, the decision held that, even though Nielsen considers the island to be a single market, stations on opposite sides of the island don’t really compete with each other as their signals don’t reach the same audiences. Thus, the Commission decided to exempt Puerto Rico stations from the market-based approach to a multiple ownership analysis. Instead, owners in Puerto Rico will be allowed to use the contour-based approach used outside of Nielsen Metro markets to analyze multiple ownership restrictions on these stations based on their actual service area.

Counsel noted that this decision was at odds with the approach the FCC took with respect to embedded markets, where it concluded that that stations in such markets, even though they don’t really compete in the central market or in other embedded markets in the same larger parent market, still have to assume for multiple ownership purposes that they are all located in the central city.

Counsel suggested that the FCC staff should be amenable to an argument that embedded markets are in the same situation as the markets in Puerto Rico, except that instead of a large mountain separating markets, there is a large city. Counsel noted that stations in embedded markets do not compete with each other – Long Island doesn’t compete with Coastal New Jersey, which doesn’t compete with Hudson County; these are different marketplaces. Counsel argued that stations that are home to the embedded markets have very little competitive impact in the core markets themselves. In addition, Counsel noted that the Nielsen embedded market structure benefits the stations in the central city market (i.e., New York City), not the stations in the embedded markets.

¹ 2014 Quadrennial Regulatory Review, Second Report and Order, MB Docket No. 14-50, FCC 16-106 (rel. Aug. 25, 2016), at http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0825/FCC-16-107A1.pdf.

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Counsel provided the attached maps to the FCC employees, to demonstrate that the stations in embedded markets do not even serve the same areas. Counsel also pointed to previous filings, in particular the June 7, 2016 ex parte filing by Connoisseur, that further demonstrate that the embedded market stations do not compete with stations in other embedded markets, and in fact do not substantially cover the parent market with a 1 mv/m signal, while the stations licensed to core counties in the parent market do in fact place a 1 mv/m signal over most of the market including the home counties in the embedded markets. Thus, adopting a rule that, for stations licensed to communities in the home counties in an embedded market, an ownership analysis in the greater parent market should not be used. Instead, ownership should be judged by (1) whether the stations comply with the ownership rules in the embedded market to which they are home, and (2) that they comply with the ownership rules using a contour methodology that would apply in non-rated markets, and as was used in analyzing stations in the Puerto Rico market in the Ownership Order.

Counsel stated that a change in the Ownership Order was necessary as the lack of certainty or reliance on waivers would not work from a marketplace perspective, as no deals could likely ever get done if a potential buyer cannot assure a seller that there is a significant likelihood that the deal will be competed in a timely fashion (if at all). That would be the case with the current order, where no concrete standards for judging a waiver were provided by the Ownership Order.

Should there be any questions concerning this matter, please contact the undersigned.

Sincerely,

A handwritten signature in dark ink, appearing to read "David Oxenford", with a stylized flourish at the end.

David Oxenford

cc (with attachments):

Brendan Holland, Industry Analysis Division, Media Bureau
Benjamin Arden, Industry Analysis Division, Media Bureau
Chad Guo, Industry Analysis Division, Media Bureau
Peter Doyle, Audio Division, Media Bureau
Lisa Scanlan, Audio Division, Media Bureau
Christine Goepp, Audio Division, Media Bureau

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- WKTU

KEY:

- Nassau-Suffolk, NY
- Hudson Valley, NY
- Monmouth-Ocean, NJ
- Middlesex, Somerset, Union, NJ
- Morris County, NJ
- Stamford-Norwalk, CT

